

Assembly Bill No. 720

Passed the Assembly September 11, 2013

Chief Clerk of the Assembly

Passed the Senate September 11, 2013

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2013, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to add Section 4011.11 to the Penal Code, and to amend Section 14011.10 of the Welfare and Institutions Code, relating to inmates.

LEGISLATIVE COUNSEL'S DIGEST

AB 720, Skinner. Inmates: health care enrollment.

Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Care Services, under which qualified low-income individuals receive health care services. The Medi-Cal program is, in part, governed and funded by federal Medicaid Program provisions. Existing federal law prohibits federal financial participation for medical care provided to inmates of a public institution, except when the inmate is a patient in a medical institution.

Commencing January 1, 2014, the federal Patient Protection and Affordable Care Act expands eligibility under the Medicaid Program for certain groups and enacts various other health care coverage market reforms that take effect on that date. Existing federal law requires the Secretary of Health and Human Services to develop and provide to each state a single, streamlined form that may be used to apply for all state health subsidy programs, as defined, within the state.

This bill would authorize the board of supervisors in each county, in consultation with the county sheriff, to designate an entity or entities to assist county jail inmates to apply for a health insurance affordability program, as defined. The bill would authorize the entity, to the extent authorized by federal law and federal financial participation is available, to act on behalf of a county jail inmate for the purpose of applying for, or determinations of, Medi-Cal eligibility for acute inpatient hospital services, as specified. The bill would provide that county jail inmates who are currently enrolled in the Medi-Cal program shall remain eligible for, and shall not be terminated from, the program due to their detention, unless required by federal law, they become otherwise ineligible, or the suspension of their benefits has ended. The bill would provide that the fact that an applicant is an inmate shall not, in and

of itself, preclude a county human services agency from processing an application for the Medi-Cal program submitted to it by, or on behalf of, that inmate.

Existing law also provides for the suspension of Medi-Cal benefits to an inmate of a public institution who is under 21 years of age. Existing law requires county welfare departments to notify the department within 10 days of receiving information that an individual under 21 years of age who is receiving Medi-Cal is or will be an inmate of a public institution.

This bill would instead make these provisions applicable without regard to the age of the individual, provided that federal financial participation would not be jeopardized. By expanding the duties of county agencies, this bill would impose a state-mandated local program.

The bill would also include a statement of legislative intent.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

The people of the State of California do enact as follows:

SECTION 1. It is the intent of the Legislature in enacting this act to, among other things, ensure that county human services agencies recognize that (a) federal law generally does not authorize federal financial participation for Medi-Cal when a person is an inmate of a public institution, as defined in federal law, unless the inmate is admitted as an inpatient to a noncorrectional health care facility, (b) federal financial participation is available after an inmate is released from a county jail, and (c) the fact that an applicant is currently an inmate does not, in and of itself, preclude the county human services agency from processing the application submitted to it by, or on behalf of, that inmate.

SEC. 2. Section 4011.11 is added to the Penal Code, to read:

4011.11. (a) (1) The board of supervisors in each county, in consultation with the county sheriff, may designate an entity or

entities to assist county jail inmates with submitting an application for a health insurance affordability program consistent with federal requirements.

(2) The board of supervisors shall not designate the county sheriff as an entity to assist with submitting an application for a health insurance affordability program for county jail inmates unless the county sheriff agrees to perform this function.

(3) If the board of supervisors designates a community-based organization as an entity to assist with submitting an application for a health insurance affordability program for county jail inmates, the designation shall be subject to approval by the jail administrator or his or her designee.

(b) The jail administrator, or his or her designee, may coordinate with an entity designated pursuant to subdivision (a).

(c) Consistent with federal law, a county jail inmate who is currently enrolled in the Medi-Cal program shall remain eligible for, and shall not be terminated from, the program due to his or her detention unless required by federal law, he or she becomes otherwise ineligible, or the inmate's suspension of benefits has ended pursuant to Section 14011.10 of the Welfare and Institutions Code.

(d) Notwithstanding any other state law, and only to the extent federal law allows and federal financial participation is available, an entity designated pursuant to subdivision (a) is authorized to act on behalf of a county jail inmate for the purpose of applying for, or determinations of, Medi-Cal eligibility for acute inpatient hospital services authorized by Section 14053.7 of the Welfare and Institutions Code. An entity designated pursuant to subdivision (a) shall not determine Medi-Cal eligibility or redetermine Medi-Cal eligibility, unless the entity is the county human services agency.

(e) The fact that an applicant is an inmate shall not, in and of itself, preclude a county human services agency from processing an application for the Medi-Cal program submitted to it by, or on behalf of, that inmate.

(f) For purposes of this section, "health insurance affordability program" means a program that is one of the following:

(1) The state's Medi-Cal program under Title XIX of the federal Social Security Act.

(2) The state's children's health insurance program (CHIP) under Title XXI of the federal Social Security Act.

(3) A program that makes coverage in a qualified health plan through the California Health Benefit Exchange established pursuant to Section 100500 of the Government Code with advance payment of the premium tax credit established under Section 36B of the Internal Revenue Code available to qualified individuals.

(4) A program that makes available coverage in a qualified health plan through the California Health Benefit Exchange established pursuant to Section 100500 of the Government Code with cost-sharing reductions established under Section 1402 of the federal Patient Protection and Affordable Care Act (Public Law 111-148) and any subsequent amendments to that act.

(g) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department may implement this section by means of all-county letters or similar instructions, without taking regulatory action.

SEC. 3. Section 14011.10 of the Welfare and Institutions Code is amended to read:

14011.10. (a) Except as provided in Sections 14011.11, 14053.7, and 14053.8, benefits provided under this chapter to an individual who is an inmate of a public institution shall be suspended in accordance with Section 1396d(a)(29)(A) of Title 42 of the United States Code as provided in subdivision (c).

(b) County welfare departments shall notify the department within 10 days of receiving information that an individual on Medi-Cal in the county is or will be an inmate of a public institution.

(c) If an individual is a Medi-Cal beneficiary on the date he or she becomes an inmate of a public institution, his or her benefits under this chapter and under Chapter 8 (commencing with Section 14200) shall be suspended effective the date he or she becomes an inmate of a public institution. The suspension shall end on the date he or she is no longer an inmate of a public institution or one year from the date he or she becomes an inmate of a public institution, whichever is sooner.

(d) Nothing in this section shall create a state-funded benefit or program. Health care services under this chapter and Chapter 8 (commencing with Section 14200) shall not be available to inmates

of public institutions whose Medi-Cal benefits have been suspended under this section.

(e) This section shall be implemented only if and to the extent allowed by federal law. This section shall be implemented only to the extent that any necessary federal approval of state plan amendments or other federal approvals are obtained.

(f) If any part of this section is in conflict with or does not comply with federal law, this entire section shall be inoperative.

(g) This section shall be implemented on January 1, 2010, or the date when all necessary federal approvals are obtained, whichever is later.

(h) By January 1, 2010, or the date when all necessary federal approvals are obtained, whichever is later, the department, in consultation with the Chief Probation Officers of California and the County Welfare Directors Association, shall establish the protocols and procedures necessary to implement this section, including any needed changes to the protocols and procedures previously established to implement Section 14029.5.

(i) The department shall determine whether federal financial participation will be jeopardized by implementing this section and shall implement this section only if and to the extent that federal financial participation is not jeopardized.

(j) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department shall implement this section by means of all-county letters or similar instructions without taking regulatory action. Thereafter, the department shall adopt regulations in accordance with the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 4. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

Approved _____, 2013

Governor